

**REDACTED DRAFT – PUBLIC VERSION**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**  
**ENERGY DIVISION**  
Item 51 ID#3955  
**RESOLUTION E-3878**  
**December 16, 2004**

**R E S O L U T I O N**

Resolution E-3878. San Diego Gas and Electric for approval of its 2003 quarterly procurement transaction filings demonstrating that power procurement activities executed during the period January 1 through December 31, 2003 were in compliance with the guidelines set forth in its Short-Term Procurement Plan filed with the Commission on November 15, 2002.

By Advice Letters: (1) AL 1493-E, filed May 1, 2003; (2) AL 1513-E, filed July 22, 2003; (3) AL 1536-E, filed October 30, 2003; (4) AL 1560-E, filed January 30, 2004.

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**SUMMARY**

**This Resolution approves San Diego Gas and Electric's (SDG&E) 2003 quarterly procurement transaction filings and orders the disclosure of information summarizing those transactions.**

Energy Division concludes that SDG&E's procurement transactions reported in its 2003 quarterly procurement transaction filings are in compliance with its Commission-approved 2003 Short-Term Procurement Plan (STPP). Cost recovery, which we do not address herein, was reviewed and determined in Application (A.) 03-12-010, Energy Resource Recovery Account (ERRA) proceeding.<sup>1</sup>

Per Ordering Paragraph (OP) 8 of D.02-10-062, SDG&E filed each quarter's procurement transactions on May 1, July 22, October 30, 2003 and January 30,

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<sup>1</sup> Decision (D.) 04-09-003, adopted on September 2, 2004, found SDG&E's administration of power purchase agreements and procurement of least-cost dispatch activities for the period January 1, 2003 through September 20, 2003 reasonable and prudent.

2004,<sup>2</sup> to demonstrate that its power procurement activities during the period January 1 through December 31, 2003 complied with the guidelines set forth in its Commission-approved 2003 STPP.

SDG&E requested that the quarterly compliance filings be effective on the submittal dates.

The quarterly filings submitted by SDG&E include confidential appendices intended to demonstrate its compliance with the 2003 STPP. SDG&E submitted those appendices as Confidential Material protected by Section 583 of the Public Utilities Code, which prohibits disclosure of confidential public utility information except by Commission order or in the course of a hearing or proceeding.

This resolution approves ALs 1493-E, 1513-E, 1536-E, and 1560-E effective today, and orders the disclosure of summary information relating to those transactions by authorizing publication of the unredacted resolution. Accordingly, all text in this resolution which appears on portions of pages 6 through 12 in the unredacted copy, and which is currently marked “[REDACTED]” in the redacted copy, should be made public via posting on the PUC’s website upon Commission approval of this resolution.

## **BACKGROUND**

**D.02-10-062 orders the three major electric utilities to file quarterly compliance advice letters following the close of each quarter detailing all procurement transactions executed in compliance with their approved short-term procurement plans.**

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<sup>2</sup> OP No.8 of D.02-12-062 originally required the utilities to file the compliance advice letters within 15 days of the end of the quarter. On September 23, 2003, the Commission’s Executive Director granted a joint request by Pacific Gas and Electric Company and SDG&E to extend the due date of the third quarter filing to October 30 (i.e., 30 days from close of the quarter). In D.03-12-062, the Commission revised compliance filing requirement to within 30 days of the end of the quarter for all subsequent quarterly compliance filings (see OP No. 19).

On October 29, 2001, the Commission issued R.01-10-024, an Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for Generation Procurement and Renewable Resource Development. R.01-10-024 was issued to (1) establish ratemaking mechanisms to enable the California investor-owned utilities (IOUs), including SDG&E, to resume purchasing electric energy, capacity, ancillary services and related hedging instruments to fulfill their obligations to serve and meet the needs of their customers, and (2) comply with the requirements of Section 701.3 of the PU Code.

D.02-10-062, an Interim Opinion in R.01-10-024, adopted the regulatory framework under which the respondent utilities (SCE, PG&E, and SDG&E) resumed full procurement responsibilities on January 1, 2003. As part of this framework, D.02-10-062 authorized a number of procurement transaction types and processes, and established the Energy Resource Recovery Account (ERRA) for timely cost recovery.

Once a utility's short-term procurement plan is approved, transactions entered into in compliance with the procurement plan are filed for tracking purposes in a quarterly advice letter with the Commission's Energy Division [prior to consideration in an ERRA review]. The advice letter should include all information in the adopted master-data request in Appendix B of D.02-10-062.

D.02-10-062, Conclusion of Law 7, stated that the "Commission's Energy Division should review the [quarterly] transactions to ensure the prices, terms, types of products, and quantities of each product conform to the approved plan. Consistent with AB 57, any transaction submitted by advice letter that is found to not comport with the adopted procurement plan may be subject to further review."

We do not address cost recovery in this resolution. Cost recovery was reviewed and determined in the separate ERRA proceeding (A.03-12-010).

## **NOTICE**

Notice of ALs 1493-E, 1513-E, 1536-E, and 1560-E was made by publication in the Commission's Daily Calendar. SDG&E states that copies of the Advice Letters were mailed and distributed in accordance with Section III-G of General Order 96-A.

## **PROTESTS**

SDG&E ALs 1493-E, 1513-E, 1536-E, and 1560-E were not protested.

## **DISCUSSION**

**Energy Division reviewed SDG&E's quarterly compliance filings and concluded that SDG&E's 2003 procurement transactions comply with the utility's approved 2003 Short-Term Procurement Plan.**

As required by D.02-10-062, Appendix B, Adopted Master Data Request for Quarterly Advice Letters, SDG&E is required to file specific information in its quarterly compliance filing.<sup>3</sup> SDG&E's response to each Master Data Request item was filed as Confidential Protected Material under PU Code Section 583 and pursuant to May 30, 2003 Modified Protective Order in R.01-10-024. This resolution, including the tables, graphs and narratives presented below, are based entirely on data submitted by SDG&E as protected by Section 583. Notwithstanding SDG&E's claim of confidentiality over this data, the Energy Division recommends the Commission make public all of the information presented in this resolution. By sunshining this data, the Commission will make plain to the public at large the bases for Commission decision-making.

In making this recommendation, the Energy Division recognizes the tradeoff the Commission faces as it balances the competing interests of (i) keeping confidential certain information which, if released, could reveal SDG&E's procurement strategy and trading practices thereby placing it at a competitive disadvantage in energy markets for future transactions, to the detriment of California ratepayers and (ii) allowing members of the public to review the Commission's oversight of energy procurement.<sup>4</sup> The Energy Division has

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<sup>3</sup> The caption for Appendix B to D.02-10-062 incorrectly referenced the compliance filings as a monthly advice letter. Appendix B was subsequently modified by D.03-06-076, Order Modifying Decisions 02-10-062 and 02-12-074 and Denying Rehearing, to correct the Appendix B caption to reflect a quarterly advice letter filing schedule.

<sup>4</sup> Consistent with its obligations under Section 454.5(g) of the Public Utilities Code, the Commission implemented procedures that require utilities to disclose market sensitive information related to resource procurement to parties who sign a confidentiality

*Footnote continued on next page*

aggregated the most sensitive transaction data. The Energy Division therefore believes that the information it seeks to make public would not compromise SDG&E's power procurement trading strategies and practices. Disclosure of information submitted pursuant to Section 583 is therefore warranted in order to further the Commission's responsibility to engage in open decision-making.

The confidential protected material presented below (which includes information concerning transaction processes, product types, price ranges, and counterparties) is redacted in the public version of this resolution. The Energy Division recommends that the Commission make that information public by authorizing publication of the unredacted resolution. Accordingly, all text in this resolution which appears on portions of pages 6 through 12 in the unredacted copy, or which is marked "[REDACTED]" in the redacted copy, should be made public via posting on the PUC's website upon Commission approval of this resolution.

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agreement limiting use and disclosure of such information. Administrative Law Judge Ruling Regarding Confidential Information and Effective Public Participation, April 4, 2003 Ruling in R.01-10-024. The aggregated information released today can be examined by anyone without signing a confidentiality agreement.

**SDG&E Acted In Compliance With Its Approved 2003 Procurement Plan**

SDG&E's quarterly filings demonstrate that its 2003 procurement activities complied with the guidelines set forth in its 2003 STPP filed with the Commission on November 15, 2002. D.02-12-074 had approved SDG&E's 2003 STPP, as modified.

**[REDACTED]**

**[REDACTED]**

***[REDACTED]***

***SDG&E/CDWR Portfolio Changes***

***[REDACTED]***



### **SDG&E Executed Transactions in Compliance with its Procurement Plan**

D.02-10-062 authorized a number of procurement transactions types and processes. SDG&E acted in accordance with its STPP and the Commission decisions, while executing the procurement transactions. **[REDACTED]**

Energy Division's review of SDG&E's compliance reports and workpapers confirmed that SDG&E's transactions were completed through processes that are consistent with SDG&E's approved 2003 STPP. Examples of authorized processes in D.02-10-062 and D. 03-12-062 include bilateral contracting, brokers, electronic exchanges, the CAISO market, and competitive solicitations.

The review also verified that SDG&E employed procurement products approved in its 2003 STPP. Examples of products authorized in D.02-12-062 and D.03-12-062 include forward spot (day-ahead and hour-ahead) purchases and sales, ISO imbalance energy, exchanges, swaps, electricity transmission products, gas purchases and others. Here is a brief overview of the transactions executed by SDG&E in 2003:

*Electric transactions.* **[REDACTED]**

*Transaction process.* [REDACTED]

*Ancillary Service Transactions:* [REDACTED]

*Risk Mitigation:* [REDACTED]

**[REDACTED]**

### **SDG&E Transacted With A Diverse Group Of Parties**

The data provided in the monthly Energy Resource Recovery Account (ERRA) reports indicate that SDG&E transacted with a high number and diverse group of parties, as shown below:

**[REDACTED]**

**SDG&E did not specify any price limits for purchases in its 2003 STPP.  
[REDACTED]**

Although SDG&E's approved STPP includes price forecasts, such price forecasts do not dictate a range of prices that restrict, or set limits on, the kinds of transactions SDG&E can execute.

**[REDACTED]**

### **COMMENTS**

PU Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote

of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, a redacted version of this draft resolution was mailed to parties in R.04-04-003 and an unredacted version was distributed to SDG&E's Procurement Review Group on October 7, 2004 for comments, and will be placed on the Commission's agenda no earlier than 30 days from today. Comments were due on November 1, 2004. Reply comments were due November 8, 2004.

SDG&E's timely-filed comments focus mainly on the proposed release of the confidentially submitted data. Even though the company does not object to disclosure of certain portions of the draft resolution, it requests the remaining portions stay confidential. SDG&E disagrees with the Findings 5, 6, and 7, which stated the following:

**Finding 5:** Over eight months has elapsed since SDG&E submitted the confidential data for 2003 procurement transactions, so its current value for future transactions is limited.

**Finding 6:** The Energy Division has aggregated the most sensitive transaction data.

**Finding 7:** Release in an aggregate form of the confidential data submitted by SDG&E would not compromise SDG&E's power procurement strategies and practices.

SDG&E is especially concerned with the graphs that would disclose its residual net short position, and argues that the disclosure of the redacted material would compromise SDG&E's trading strategies and practices. Furthermore, SDG&E states that the existing Protective Order adopted in R.01-10-024 and the confidentiality framework adopted by the Commission on April 4, 2003 support the confidential nature of the data. In its reply comments filed on November 8, 2004, the Office of Ratepayer Advocates (ORA) supports SDG&E's comments on the confidentiality issue and recommends that the information identified by SDG&E be redacted from the public version of the resolution.

We have carefully reviewed SDG&E's comments:

(1) SDG&E provided persuasive justification as to why some of the information we intended to disclose can be unfavorable to SDG&E in its future negotiations with market participants. Therefore, we recommend the Commission disclose the relevant information in a format that does not reveal SDG&E's net short position.

(2) We do not agree that disclosing certain product types and transaction processes SDG&E employed during 2003 would compromise SDG&E's trading strategies and practices. The product types and transaction processes are a subset of those that every utility likely employs. Furthermore, we do not provide specifics related to these product types and processes. Therefore, we find no harm in disclosing them.

In its reply comments, ORA commented that the resolution should state whether the Energy Division verified that the quarterly compliance filings "include all information required by prior Commission decisions," and should either withdraw the resolution until the verification has occurred, or state that "SDG&E is in compliance with all relevant Commission decisions." ORA also commented that the Energy Division should identify the scope of its review. As examples of the scope of review, ORA asks whether Energy Division reviewed balancing account entries and least-cost dispatch decisions made by PG&E during the reporting period.<sup>5</sup>

SDG&E responded to a master data request of 10 questions designed to determine compliance with the procurement requirements set by the Commission, as well as additional data requests from the Energy Division. Based on the data request responses and follow up by the Commission's Energy Division staff, we determine that SDG&E generally complied with the Commission's quarterly compliance filing requirements.<sup>6</sup> We expect the review process to be more efficient when the utilities use the standard responses we

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<sup>5</sup> ORA raised these issues for the first time in reply comments, but we nevertheless respond to these points because they merit a response.

<sup>6</sup> In support of their quarterly compliance filings, the utilities are required to submit Black Model results (for informational purposes) per Ordering Paragraph 10 of D.02-12-074 as well as provide the information specified in Appendix B of D.02-10-062.

directed them to develop in R.04-04-03, but are satisfied that SDG&E's 2003 procurement activities substantially complied with Commission-approved procurement plans.

With respect to ORA's question regarding least-cost dispatch decisions and review of balancing account entries, we note that such a review falls outside the scope of the quarterly procurement transaction review process. The proper forum for that review is each utility's Energy Resource Recovery Account application.<sup>7</sup>

## **FINDINGS**

1. Per Ordering Paragraph (OP) 8 of D.02-10-062, SDG&E filed each quarter's procurement transactions on May 1, July 22, October 30, 2003 and January 30, 2004, to demonstrate that its power procurement activities during the period January 1 through December 31, 2003 conformed with the guidelines set forth in its Commission-approved 2003 STPP.
2. SDG&E submitted the Appendices to Advice Letters 1493-E, 1513-E, 1536-E, and 1560-E pursuant to Section 583 of the Public Utilities Code.
3. Both Public Utilities Code Section 583 and General Order 66-C limit disclosure of confidential utility data in the absence of formal action by the Commission or disclosure at a formal hearing.
4. Neither Public Utilities Code Section 583 nor General Order 66-C creates for the utility a privilege of nondisclosure by the Commission.

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<sup>7</sup> See D.02-10-062 at page 65 and D.03-06-067 at page 8.

5. The Energy Division has aggregated the most sensitive transaction data.
6. Release in an aggregate form of the confidential data submitted by SDG&E and as presented in this Resolution would not compromise SDG&E's power procurement strategies and practices and is consistent with Section 454.4(g) of the Public Utilities Code.
7. The information presented in this Resolution allows the Public to review the Commission's oversight of power procurement but does not harm SDG&E's procurement practices and strategy.
8. Advice Letters 1493-E, 1513-E, 1536-E, and 1560-E were not protested.
9. Energy Division concludes that SDG&E's procurement transactions reported in its 2003 quarterly procurement transaction filings are in conformance with its Commission-approved 2003 Short-Term Procurement Plan (STPP). Cost recovery, which we do not address herein, was reviewed and determined in Application (A.) 03-12-010, Energy Resource Recovery Account (ERRA) proceeding.

**THEREFORE IT IS ORDERED THAT:**

1. SDG&E's 2003 quarterly compliance report filings are approved.
2. The unredacted version of this resolution shall be posted on the Commission's website.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on December 16, 2004; the following Commissioners voting favorably thereon:

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STEVE LARSON  
Executive Director